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B&O Manufacturing, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

B&O MANUFACTURING, INC.,

Plaintiff,
v.

HOME DEPOT U.S.A., INC.,

Defendant.

Case No.: C 07-02864 JSW

**EVIDENTIARY OBJECTIONS TO
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO TRANSFER VENUE TO
THE NORTHERN DISTRICT OF
GEORGIA AND TO DISMISS COUNTS
TWO THROUGH FIVE OF
PLAINTIFF'S SECOND AMENDED
COMPLAINT**

Date: November 2, 2007
Time: 9:00 a.m.
Cttrm: 2, 17th Floor
Judge: Hon. Jeffrey S. White

Plaintiff B&O Manufacturing, Inc. hereby objects to Defendant's Memorandum of Points and Authorities in Support of Motion to Transfer Venue to the Northern District of Georgia and to Dismiss Counts Two Through Five of Plaintiff's Second Amended Complaint as follows:

	<u>REFERENCE</u>	<u>OBJECTIONS</u>
1.	General Objection.	None of Defendant's purported facts, as contained within its "INTRODUCTION" is

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1		in compliance with applicable Rules of
2		Evidence. Defendant, in its
3		“ INTRODUCTION ,” fails to refer to any
4		evidence whatsoever, let alone admissible
5		evidence. All evidence submitted to the
6		Court in support of Defendant’s Motion must
7		be admissible. <i>Traveler’s Casualty Ins. Co.</i>
8		<i>of America v. TelStar Contrustion Company</i> ,
9		D. Ariz. 252 F. Supp. 917, 922 (2003);
10		N.D.Cal. Local Rule 7-5(b). Defendant
11		makes many statements without any
12		evidentiary support whatsoever.
13		_____ Sustained
14		_____ Overruled
15	2.	Page 2:20-21, commencing with “The,”
16		and ending with “million.”
17		Local Rule 7-5(a) and (b). No evidentiary
18		support. See ¶ 1 (General Objection).
19		_____ Sustained
20		_____ Overruled
21	3.	Page 2:21-22, commencing with “further.”
22		Local Rule 7-5(a) and (b). No evidentiary
23		support. See ¶ 1 (General Objection).
24		_____ Sustained
25		_____ Overruled
26	4.	Page 2:21-25, commencing with “Despite,”
27		and ending with “time.”
28		Local Rule 7-5(a) and (b). No evidentiary
		support. See ¶ 1 (General Objection).
		_____ Sustained
		_____ Overruled
	5.	Page 3:3-4 commencing with the first
		Local Rule 7-5(a) and (b). No evidentiary

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1		"B&O."	support. See ¶ 1 (General Objection).
2			_____ Sustained
3			_____ Overruled
4	6.	Page 3:8-9 commencing with the first	Local Rule 7-5(a) and (b). No evidentiary
5		"Home Depot," ending with "issue."	support. See ¶ 1 (General Objection).
6			_____ Sustained
7			_____ Overruled
8	7.	Page 3:10-12, commencing with "B&O."	Local Rule 7-5(a) and (b). No evidentiary
9			support. See ¶ 1 (General Objection).
10			_____ Sustained
11			_____ Overruled
12	8.	Page 7:14-17, commencing with	Local Rule 7-5(a) and (b). No evidentiary
13		"Moreover."	support. Speculation. See ¶ 1 (General
14			Objection).
15			_____ Sustained
16			_____ Overruled
17	9.	Page 7, footnote 2.	Local Rule 7-5(a) and (b). No evidentiary
18			support. Speculation. See ¶ 1 (General
19			Objection).
20			_____ Sustained
21			_____ Overruled

Dated: September 24, 2007

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By: /s/ Paul E. Rice

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 Attorneys for Plaintiff
 B&O MANUFACTURING, INC.